

AGENDA

SPECIAL MEETING BOARD OF MAYOR AND ALDERMEN (PUBLIC HEARING – STORM WATER ORDINANCE)

October 4, 2005

**5:30 PM
Aldermanic Chambers
City Hall (3rd Floor)**

1. Mayor Baines calls the meeting to order.
2. Mayor Baines calls for the Pledge of Allegiance.

A moment of silent prayer is observed.
3. The Clerk calls the roll.
4. Mayor Baines advises that the purpose of the special meeting is to hear those wishing to speak in favor of or in opposition to a proposed ordinance amendment; that the Clerk will present the proposed ordinance amendment for discussion at which time those wishing to speak in favor will be heard, followed by those wishing to speak in opposition; that anyone wishing to speak must first step to the nearest microphone when recognized and recite his or her name and address in a clear, loud voice for the record, that each person will be given only one opportunity to speak; and any questions must be directed to the Chair.
5. The Clerk presents the proposed ordinance amendment:

“Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works.”
6. Mayor Baines requests that Rick Cantu, Environmental Permits Coordinator, make a presentation.

7. Mayor Baines calls for those wishing to speak in favor.
8. Mayor Baines calls for those wishing to speak in opposition.
9. Mayor Baines advises that all wishing to speak having been heard, the testimony presented will be referred to the Committee on Bills on Second Reading to be taken under advisement with reports to be made to the Board of Mayor and Aldermen.
10. Mayor Baines advises that this being a special meeting of the Board, no further business can be presented and a motion to adjourn would be in order.

To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Bills on Second Reading respectfully recommends, after due and careful consideration, that an Ordinance:

“Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works.”


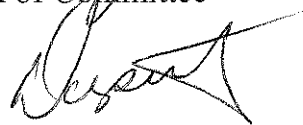
be referred to a public hearing to be held on Monday, September 26 at 5:30 PM in the Aldermanic Chambers.

(Unanimous vote)

At a meeting of the Board of Mayor and Aldermen
held Sept 6, 2005 on a motion of Ald. O'Neil
Iuly seconded by Ald. Smith the report
of the Committee was accepted and its recommendations
(adopted) (denied)

City Clerk

Respectfully submitted,


Clerk of Committee




**City Of Manchester
Department of Highways
Environmental Protection Division**

300 Winston Street
Manchester, New Hampshire 03103-6826
(603) 624-6595 Fax (603) 628-6234

Frank C. Thomas, P.E.
Public Works Director

Kevin A. Sheppard, P.E.
Deputy Public Works Director

IN BOARD OF MAYOR & ALDERMEN

DATE: July 19, 2005

ON MOTION OF ALD. O'Neil

SECONDED BY ALD. Garrity

#05-012-EPC

refer to the Committee on

VOTED TO Bills on Second Reading.

L. Bernier
CITY CLERK

June 29, 2005

Leo Bernier
City Clerk
1 City Hall Plaza
Manchester, NH 03101

Re: Storm Water Ordinance Passage

Dear Leo:

The Department of Highways has finalized the Storm Water Ordinance and Rules & Regulations as required by the EPA's, Storm Water Management Plan. These documents have had all the required internal reviews and comments. They are now ready for the Ordinance adoption process. Could you please put this Ordinance on the agenda for the next Board of Mayor and Aldermen meeting? Representatives from Highway Department will be available to answer any questions.

There will need to be at least one public hearing during the approval process as this is a requirement of the EPA. A copy of the draft Ordinance and Rules & Regulations are attached for duplication and distribution.

The actions taken to date by the Highway Department are presented below:

- March 10, 2003 the EPA implemented the Storm Water Management Program (SWMP). Forty-five communities in NH were required to implement the program.
- The Program requires six-minimum controls (1. Education & Outreach, 2. Public Participation, 3. Illicit Discharges, 4. Runoff Controls, 5. Post-construction storm water management, 6. Pollution Prevention in Municipal Operations). Each minimum control has associated tasks;
- Control three (Illicit Discharges), task number one (Develop a Storm Water Ordinance), requires the development and adoption of a Storm Water Ordinance. The required implementation date is 7/30/05 (this is for finalization of a draft for presentation to the Board of Mayor & Aldermen);

Storm Water Ordinance Passage

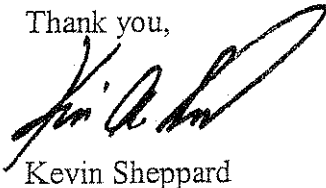
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June 29, 2005

- There was an initial meeting with the Planning Department in the fall of 2003 (Terry Harlacher & Louise Donnington) to explain storm water requirements and receive planning's input and perspective on the Ordinance development. This was followed by a meeting with the Planning Board with a slide presentation of the EPA requirements;
- The Highway Department staff and EPD had four internal meetings to work on the draft ordinance. The consensus was to have a small Ordinance that referenced an extensive set of Rules & Regulations. This route was chosen as it will be easier to update Rules & Regulations as the program matures and Federal regulations change;
- The City Solicitor has reviewed the Ordinance and Rules & Regulations, given his recommendations and these were incorporated into both documents;
- All finalized changes were emailed to the Building, Planning, Health, Highway, Parks & Rec and the Urban Ponds representative to make final comment;
- Final passage date of an Ordinance is required by 7/30/06, otherwise EPA may take enforcement action against the City for failure to comply with the approved Storm Water Management Program;
- A meeting and overview of the documents was done with the Highway Commission on June 13, 2005 to explain the requirements behind the Ordinance and Rules & Regulations.

Rick Cantu, of EPD, is the Storm Water Coordinator and is coordinating the efforts to finalize the adoption of this Ordinance and the Rules and Regulations. Please advise him of the meetings that will need to be attended and what you would like him to include in the presentations.

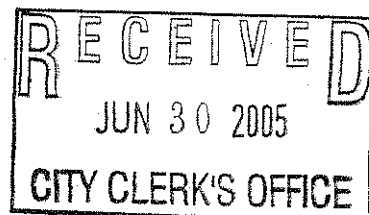
Thank you,



Kevin Sheppard

Cc: Thomas W. Seigle
Rick Cantu

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City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

CHAPTER 54: STORM WATER

Section

- 54.01 Purpose
- 54.02 Definitions
- 54.03 Administration
- 54.04 Prohibited discharges
- 54.05 Permit procedures and requirements
- 54.06 General Permit Provisions
- 54.07 Eligibility
- 54.08 Waivers
- 54.09 Storm water design and management standards
- 54.10 Industrial activity discharges
- 54.11 Access and inspection of properties and facilities
- 54.12 Notification of accidental discharges and spills
- 54.13 Violations, enforcement and penalties

§ 54.01 PURPOSE.

The purpose of this chapter is to:

(A) Protect, maintain, and enhance the environment of the City of Manchester, New Hampshire and the public health, safety and the general welfare of the citizens of the City, by controlling discharges of pollutants to the City's storm water system and to maintain and improve the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the City.

(B) Enable the City of Manchester to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR §122.26 for storm water discharges.

(C) Allow the City of Manchester to exercise the powers granted by the State of New Hampshire through ordinance or resolution to:

(1) Exercise general regulation over the planning, location, construction, and operation and maintenance of storm water facilities in the City, whether or not owned and operated by the City;

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- (2) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
- (3) Establish standards to regulate the quantity of storm water discharged and to regulate storm water contaminants as may be necessary to protect water quality;
- (4) Review and approve plans for storm water management in proposed subdivisions or commercial developments;
- (5) Issue permits for storm water discharges, or for the construction, alteration, extension, or repair of storm water facilities;
- (6) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
- (7) Regulate and prohibit discharges into storm water facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
- (8) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of storm water contamination, whether public or private.

§54.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BEST MANAGEMENT PRACTICES. Physical, structural, and/or managerial practices that, when used individually or in combination, prevent or reduce pollution of water, that have been approved by the City of Manchester, and that have been incorporated by reference into the Storm Water Rules & Regulations as if fully set out within Section 6: Storm Water System Design and Management Standards of the Storm Water Rules & Regulations.

COMBINED SEWER DRAINAGE SYSTEM. A single pipe conveyance system intended to receive both sewage and storm or surface water.

CONTAMINANT. Any physical, chemical, biological, or radiological substance or matter in water.

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

DEPARTMENT OF HIGHWAYS. The Highway Division of the City of Manchester and associated departments including, but not limited to, the Environmental Protection Division (EPD).

DIRECTOR OF PUBLIC WORKS. The Chief Administrator of the Department of Public Works who is authorized to assign Public Works staff to oversee the implementation of the Storm Water Rules & Regulations and the City of Manchester’s Storm Water Ordinance.

DISCHARGE. Dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked or placed by any means including any direct or indirect entry of any solid or liquid matter into the Municipal Separate Storm Sewer System.

ILLICIT CONNECTIONS. Illegal and/or unauthorized connections to the municipal separate storm water system whether or not such connections result in discharges into that system. “Illegal Connection” means either of the following:

(1) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any pipe, open channel, drain or conveyance connected to the municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE. Any discharge to the Municipal Separate Storm Sewer System that is not composed entirely of storm water and not specifically exempted under Section 2(J) of the Storm Water Rules & Regulations.

LAND DISTURBING ACTIVITY. Any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling and excavation.

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4). The conveyances owned or operated by the municipality for the collection and transportation of storm water, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT. A permit issued pursuant to 33 USC Section 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

PERSON. Any and all persons, including any individual, firm or association and any city or private corporation organized or existing under the laws of this or any other state or country.

POLLUTANT. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; sediment; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.

POLLUTION. The contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STATE WATERS. Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of New Hampshire which are not entirely confined and retained completely upon the property of a single person.

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

STORM WATER. Storm water runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

STORM WATER APPEALS COMMITTEE. A three-member committee consisting of a Highway Commissioner, an engineer from a private engineering firm and an engineer from the Department of Highways.

STORM WATER MANAGEMENT. The programs to maintain quality and quantity of storm water runoff to pre-development levels.

STORM WATER MANAGEMENT FACILITIES. The drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which storm water is collected, transported, pumped, treated or disposed of.

STORM WATER MANAGEMENT PLAN. The set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, Best Management Practices, concepts and techniques intended to maintain or restore quality and quantity of storm water runoff to pre-development levels.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP). A plan that clearly describes appropriate control measures that include a description of all pollution control measures (i.e., Best Management Practices) that will be implemented as part of the construction activity to control pollutants in storm water discharges and describes the interim and permanent stabilization practices for the site.

STORM WATER RULES & REGULATIONS. A supplement to the Storm Water Ordinance that includes additional conditions and requirements. Copies are available at the Department of Highways and the Office of the City Clerk.

STORM WATER RUNOFF. Flow on the surface of the ground, resulting from precipitation and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORM WATER UTILITY. The Department of Highways and its duly authorized agents created by ordinance of the City to administer the Storm Water Management Ordinance, and other Storm Water Rules and Regulations adopted by the City.

STRUCTURAL BEST MANAGEMENT PRACTICES. Devices that are constructed to provide control of storm water runoff.

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

STRUCTURAL STORM WATER CONTROL. A structural storm water management facility or device that controls storm water runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

§ 54.03 ADMINISTRATION.

The Director of the Department of Highways or his designee shall administer the provisions of this ordinance and is hereby authorized to promulgate and amend such rules and regulations as may be necessary and convenient to effectuate the purposes and requirements of this ordinance.

§ 54.04 PROHIBITED DISCHARGES.

The specific prohibited discharges outlined in the Storm Water Rules & Regulations are not inclusive of all discharges prohibited by this ordinance and the Storm Water Rules & Regulations.

§ 54.05 PERMIT PROCEDURES AND REQUIREMENTS.

(A) *Permit Required* - No land owner or land operator shall begin any site work on any building(s), grading or other land development or any land disturbance activities as outlined in Section 3: of the Storm Water Rules & Regulations) without first submitting a Notice of Intent to EPA Region I. Owner must also have received acknowledgement, have an approved Storm Water Pollution Prevention Plan and meet the requirements of this ordinance.

(B) *General Waiver Requirement.* - Every applicant shall provide for storm water management as required by this ordinance and the Department of Highways Storm Water Rules & Regulations unless a written request is filed to waive this requirement. Requests to waive the Storm Water Management Plan requirements shall be submitted to the Department of Highways for approval.

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(C) *Application Requirements* - Unless specifically excluded by this ordinance, any landowner or operator desiring a permit for a land disturbance activity (as described in Section 4 of the Storm Water Rules & Regulations) shall secure required approvals through the City of Manchester’s Planning Board and shall submit to the Department of Highways a copy of the Notice of Intent and approved Storm Water Pollution Prevention Plan for related project before beginning any site clearing or construction.

Unless otherwise excepted by this ordinance, a permit application must be accompanied by required information as outlined in the Storm Water Rules & Regulations in order that the permit application be considered.

The Storm Water Management Plan shall be prepared to meet the requirements of the City of Manchester’s Storm Water Rules & Regulations and any required maintenance agreement shall be prepared to meet those requirements. Any and all fees shall be those established by the Department of Highways.

(D) *Application Review Fees* – The fee for review of any land development application shall be set by the Director of Public Works and set forth in the Storm Water Rules & Regulations. Fee shall be made prior to the issuance of any building permit for the development.

§ 54.06 GENERAL PERMIT PROVISIONS.

(A) *Land Disturbance permits when required* - Every owner/operator will be required to obtain an EPA General Permit from the EPA through a Notice of Intent in the following cases:

- (1) Land disturbing activity disturbs one (1) or more acres of land;
- (2) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land;
- (3) Land disturbing activity of less than one (1) acre of land, if in the discretion of City of Manchester such activity poses a unique threat to water, or public health or safety;
- (4) The creation and use of borrow pits (the excavation of soils from one area to be used in another area that would meet any of the criteria of 1, 2, or 3 above).

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

§ 54.07 ELIGIBILITY.

(A) *Permit Eligibility* - Permit eligibility is limited to discharges from “large” and “small” construction activity or as otherwise designated by the EPA. This general permit contains eligibility restrictions, as well as permit conditions and requirements. Permittee may have to take certain actions to be eligible for coverage under this permit. In such cases, permittee must continue to satisfy those eligibility provisions to maintain permit authorization. If permittee does not meet the requirements that are pre-condition to eligibility, then the resulting discharges constitute unpermitted discharges. By contrast, if permittee does not comply with the requirements of the general permit, permittee may be in violation of the general permit for their otherwise eligible discharges.

(B) Combined Sewer Drainage Systems Discharges from “large” and “small” construction activity or as otherwise designated by the EPA that flow into a combined sewer system are not covered by the EPA’s Phase II Storm Water Program. A Notice of Intent does not need to be submitted to the EPA nor does the owner/operator have to receive acknowledgement from the EPA prior to the start of construction activity.

The City of Manchester is requiring in these instances that all other conditions as outlined in this ordinance or the Storm Water Rules and Regulations shall apply to all construction activity as defined in Section 4 of the Storm Water Rules & Regulations, with the exception of submitting the Notice of Intent to EPA Region I. The requirements for determination of no impact status as outlined in the Endangered Species Act and Historic Preservation Act along with the completion of a Storm Water Pollution Prevention Plan as outlined in the Notice of Intent submission is still a mandatory submission to the City of Manchester and must follow the conditions as outlined in the EPA’s Notice of Intent.

§ 54.08 WAIVERS.

Every applicant shall provide for Storm Water Management as required by the Storm Water Rules & Regulations, unless a written request is filed to waive this requirement. Requests to waive the Storm Water Management Program requirements shall be submitted to the Director of Public Works for approval.

§ 54.09 STORM WATER SYSTEM DESIGN AND MANAGEMENT STANDARDS.

The City adopts as its storm water design and Best Management Practices manual those publications referenced in Section 6: Storm Water System Design and Management Standards of the Storm Water Rules & Regulations

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

§ 54.10 INDUSTRIAL ACTIVITY DISCHARGES.

All operators of City landfills, hazardous waste treatment, disposal, and recovery facilities and industrial facilities are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) 42, USC § 11023, and industrial facilities that the City determines are contributing a pollutant load to the Municipal Separate Storm Sewer System, which are sources of storm water discharges associated with industrial activity shall comply with the requirements outlined in the City's Storm Water Rules & Regulations.

§ 54.11 ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES.

(A) The representative of the Department of Highways shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this ordinance.

(B) If a property or facility has security measures in force, which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the Department of Highways.

(C) The owner or operator shall allow the representative of the Department of Highways ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, examination and copying of any records that are required under the conditions of a National Pollutant Discharge Elimination System Permit to discharge storm water.

(D) The Department of Highways shall have the right to set up on any property or facility such devices as are necessary in the opinion of the Department of Highways to conduct monitoring and/or sampling of flow discharges.

(E) The Department of Highways may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the Department of Highways. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(F) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Department of Highways and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.

§ 54.12 NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-storm water discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into storm water, the City of Manchester's separate storm sewer system, State Waters, or Waters of the U.S., said person shall immediately notify the Department of Highways and take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.

§ 54.13 VIOLATIONS, ENFORCEMENT AND PENALTIES.

(A) Unreasonable delays in allowing the Department of Highways access to a facility shall be a violation of this ordinance.

(B) If the Department of Highways has been refused access to any part of the premises from which storm water is discharged, and the Department of Highways is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the Department of Highways may seek issuance of a search warrant from any court of competent jurisdiction.

(C) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of the City's Storm Water Ordinance or the Storm Water Rules & Regulations. Any person who has violated or continues to violate these provisions may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the Department of Highways is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Department of Highways is authorized to seek costs of the abatement (as outlined in Section 10(E) of the Storm Water Rules & Regulations).

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
as follows:

(D) Whenever the Department of Highways finds that a violation of this ordinance or the Rules and Regulations has occurred, the Public Works Director or designee may order compliance by written Notice of Violation. The Notice of Violation shall contain:

- (1) The name and address of the alleged violator;
- (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- (5) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,
- (6) A statement that the determination of violation may be appealed to the Department of Highways Storm Water Appeals Committee by filing a written notice of appeal within five (5) days of service of notice of violation.

(E) Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit discharges and illegal connections;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (5) Payment of costs to cover administrative and abatement costs; and,
- (6) The implementation of pollution prevention practices.

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(F) *Appeal of Notice of Violation* - Any person receiving a Notice of Violation may appeal the determination of the Department of Highways. The appeal must be received within five (5) days from the date of the Notice of Violation. Filing of an appeal does not relieve the owner from full compliance with the remedial actions outlined in the Notice of Violation. Hearing on the appeal before the Department of Highways, Storm Water Appeals Committee shall take place within thirty (30) days from the date of receipt of the appeal. The decision of the Storm Water Appeals Committee shall be final.

(G) *Enforcement Measures After Appeal* - If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then representatives of the Department of Highways may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(H) *Costs of Abatement of the Violation* - Within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within fifteen (15) days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within five (5) days after a decision on said appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the City of Manchester by reason of such violation.

(I) *Civil Penalties* - In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within two (2) days, or such greater period as the Department of Highways shall deem appropriate, after the Director of Public Works or designee has taken one or more of the actions described above, the Public Works Director may impose a penalty not to exceed \$10,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
as follows:

(J) *Criminal Penalties* - For violations of this ordinance or the Storm Water Rules & Regulations, the Director of Public Works may issue a citation to the alleged violator requiring such person to appear in court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 for each day the violation has occurred, or imprisonment for up to sixty (60) days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(K) *Remedies Not Exclusive* - The remedies listed in this ordinance and the Storm Water Rules & Regulations are not exclusive of any other remedies available under any applicable Federal, State or local law and the City of Manchester may seek cumulative remedies including but not limited to the recovery of attorney's fees, court costs, sampling and monitoring expenses and other expenses associated with enforcement of this ordinance.

Storm Water Rules & Regulations

Note: These Rules & Regulations are prepared as a direct supplement to the City of Manchester's Storm Water Ordinance, Title V, Chapter 54: Storm Water. These Rules & Regulations will incorporate language directly from that Ordinance along with additional conditions and requirements as provided by that Ordinance.

SECTION 1. GENERAL PROVISIONS

Purpose.

It is the purpose of these Rules & Regulations to:

- (A) Protect, maintain, and enhance the environment of the City of Manchester, New Hampshire and the public health, safety and the general welfare of the citizens of the City, by controlling discharges of pollutants to the City's storm water system and to maintain and improve the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the City.
- (B) Enable the City of Manchester to comply with the National Pollution Discharge Elimination System Permit (NPDES) and applicable regulations, 40 CFR §122.26 for storm water discharges.
- (C) Allow the City of Manchester to exercise the powers granted by the State of New Hampshire through ordinance or resolution to:
 - (1) Exercise general regulation over the planning, location, construction, and operation and maintenance of storm water facilities in the City, whether or not owned and operated by the City;
 - (2) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
 - (3) Establish standards to regulate the quantity of storm water discharged and to regulate storm water contaminants as may be necessary to protect water quality;
 - (4) Review and approve plans for storm water management in proposed subdivisions or commercial developments;
 - (5) Issue permits for storm water discharges, or for the construction, alteration, extension, or repair of storm water facilities;
 - (6) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
 - (7) Regulate and prohibit discharges into storm water facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
 - (8) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of storm water contamination, whether public or private.

Administration.

The Director of the Department of Highways or his designee shall administer the provisions of these Rules & Regulations and is hereby authorized to promulgate and amend such rules and regulations as may be necessary and convenient to effectuate the purposes and requirements of these Rules & Regulations.

Interpretations of Provisions.

The provisions of these Rules & Regulations with respect to the meaning of the technical terms and phrases, the regulations with respect to erosion and sediment control, and other technical matters shall be interpreted and administered by the Public Works Director acting in and for the City, through its Highway Commission.

Definitions.

For the purpose of these Rules & Regulations, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

- (1) "*Accidental Discharge*" means a discharge prohibited by these Rules & Regulations, which occurs by chance, and without planning or thought prior to occurrence.
- (2) "*As-built Plans*" means drawings depicting conditions as they were actually constructed.
- (3) "*Best Management Practices*" or BMPs are physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the City of Manchester, and that have been incorporated by reference into these Rules & Regulations as if fully set out therein.
[NOTE: See Section 6A(1-4) for recommended BMP manuals.]
- (4) "*Channel*" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
- (5) "*Clean Water Act*" means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- (6) "*Combined Sewer Drainage System*" means a single pipe conveyance system intended to receive both sewage and storm or surface water.
- (7) "*Community Water*" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Manchester.
- (8) "*Construction Activity*" means activities subject to the EPA Phase II Storm Water Program and the NPDES General Construction Permits. These

- include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- (9) “*Contaminant*” means any physical, chemical, biological, or radiological substance or matter in water.
 - (10) “*Department of Highways*” (DPW) means the Highway Division of the City of Manchester and associated departments including, but not limited to, the Environmental Protection Division (EPD).
 - (11) “*Director of Public Works*” is the chief administrator of DPW and is authorized to assign DPW staff to oversee the implementation of these Rules & Regulations and the City of Manchester’s Storm Water Ordinance.
 - (12) “*Design Storm Event*” means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a storm water facility.
 - (13) “*Discharge*” means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the Municipal Separate Storm Sewer System.
 - (14) “*Easement*” means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, City or other legal entity has in the land of another.
 - (15) “*Erosion*” means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.
 - (16) “*Erosion and Sediment Control Plan*” means a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
 - (17) “*Hotspot*” (“*Priority Area*”) means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water.
 - (18) “*Illicit Connections*” means illegal and/or unauthorized connections to the Municipal Separate Storm Water System whether or not such connections result in discharges into that system. “*Illegal Connection*” means either of the following:
 - a) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or
 - b) Any pipe, open channel, drain or conveyance connected to the Municipal Separate Storm Sewer System which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

- (19) *"Illicit Discharge"* means any discharge to the Municipal Separate Storm Sewer System that is not composed entirely of storm water and not specifically exempted under Section 2(J).
- (20) *"Industrial Activity"* means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- (21) *"Land Disturbing Activity"* means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.
- (22) *"Maintenance"* means any activity that is necessary to keep a storm water facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a storm water facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the storm water facility.
- (23) *"Maintenance Agreement"* means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.
- (24) *"Municipal Separate Storm Sewer System (MS4)"* means the conveyances owned or operated by the municipality for the collection and transportation of storm water, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.
- (25) *"National Pollutant Discharge Elimination System Permit"* or *"NPDES Permit"* means a permit issued pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- (26) *"Non-Storm Water Discharge"* means any discharge to the storm drain system that is not composed entirely of storm water.
- (27) *"Off-site Facility"* means a structural BMP located outside the subject property boundary described in the permit application for land development activity.
- (28) *"On-site Facility"* means a structural BMP located within the subject property boundary described in the permit application for land development activity.
- (29) *"Peak Flow"* means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
- (30) *"Person"* means any and all persons, including any individual, firm or association and any city or private corporation organized or existing under the laws of this or any other state or country.
- (31) *"Pollutant"* means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; sediment; floatables; pesticides, herbicides, and fertilizers; liquid and solid

- wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.
- (32) *"Pollution"* means the contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.
- (33) *"Premises"* means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (34) *"Priority Area"* means "hot spot" as defined in Definitions (17).
- (35) *"Runoff"* means that portion of the precipitation on a drainage area that is discharged from the area into the Municipal Separate Storm Water System.
- (36) *"Sediment"* means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.
- (37) *"Sedimentation"* means soil particles suspended in storm water that can settle in streambeds and disrupt the natural flow of the stream.
- (38) *"Soils Report"* means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.
- (39) *"Stabilization"* means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
- (40) *"State Waters"* means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of New Hampshire which are not entirely confined and retained completely upon the property of a single person.
- (41) *"Storm Water"* means storm water runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.
- (42) *"Storm Water Appeals Committee"* will be a three-member committee consisting of a Highway Commissioner, an engineer from a private engineering firm and an engineer from the Department of Highways.
- (43) *"Storm Water Management"* means the programs to maintain quality and quantity of storm water runoff to pre-development levels.
- (44) *"Storm Water Management Facilities"* means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which storm water is collected, transported, pumped, treated or disposed of.

- (45) “*Storm Water Management Plan*” means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of storm water runoff to pre-development levels.
- (46) “*Storm Water Pollution Prevention Plan*” (SWPPP) means a plan that clearly describes appropriate control measures that include a description of all pollution control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in storm water discharges and describes the interim and permanent stabilization practices for the site.
- (47) “*Storm Water Runoff*” means flow on the surface of the ground, resulting from precipitation and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (48) “*Storm Water Utility*” means the Department of Highways and its duly authorized agents created by ordinance of the City to administer the Storm Water Management Ordinance, and other Storm Water Rules and Regulations adopted by the City.
- (49) “*Structural BMPs*” means devices that are constructed to provide control of storm water runoff.
- (50) “*Structural Storm Water Control*” means a structural storm water management facility or device that controls storm water runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.
- (51) “*Surface Water*” includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.
- (52) “*Watercourse*” means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
- (53) “*Watershed*” means all the land area that contributes runoff to a particular point along a waterway.

SECTION 2. PROHIBITED DISCHARGES

The specific prohibited discharges in this section are not inclusive of all discharges prohibited by these Rules & Regulations.

- (A) Violation of Water Quality Standard. No person shall introduce or cause to be introduced into the Municipal Separate Storm Sewer System (MS4) any discharge that causes or contributes to causing the City to violate a water quality standard, the City’s NPDES permit, or any state-issued discharge permit for discharges from its MS4.
- (B) Introduction of Prohibited Substances. No person shall dump, spill, leak, pump, pour, emit, empty discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced any of the following substances into the MS4.
 - (1) Any new or used motor oil, antifreeze, or other motor vehicle fluid;

- (2) Any industrial wastes;
- (3) Any hazardous waste, including hazardous household waste;
- (4) Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
- (5) Any garbage, rubbish or yard waste;
- (6) Any wastewater from a commercial carwash facility; from any vehicle washing, cleaning or maintenance at any new or used automobile, or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning or maintenance of any business or commercial or public service vehicle, including truck, bus, or heavy equipment, by a business or public entity that operates more than two such vehicles;
- (7) Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;
- (8) Any wastewater from commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;
- (9) Any wastewater from any floor, rug or carpet cleaning;
- (10) Any wastewater from the wash down or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the wash down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;
- (11) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler;
- (12) Any ready-mixed concrete, mortar, ceramic, or asphalt base material or hydro mulch material, or from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;
- (13) Any runoff or wash down water from any animal pen, kennel, or fowl or livestock containment area;
- (14) Any filter backwash from a swimming pool, fountain or spa;
- (15) Any swimming pool water containing any harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in the pool cleaning;
- (16) Any water from a water curtain in a spray room used for painting vehicles or equipment;
- (17) Any contaminated runoff from a vehicle wrecking yard;
- (18) Any substance or material that will damage, block, or clog the MS4;
- (19) Any release from a petroleum storage tank, or any leachate or runoff from soil contaminated by a leaking petroleum storage tank, or any discharge of pumped, confined, or treated waste water from the remediation of any such petroleum storage tank release, unless it complies with state and federal standards and does not contain any harmful quantity of any pollutant;
- (20) Any pet waste as outlined in the Manchester Ordinance §90.04

- (C) Introduction of Earth-type Materials. No person shall introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with cleaning, grading, excavation or other construction activities, (or associated with landfilling or other placement or disposal of soil, rock, or other earth materials) in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable (under the prevailing circumstances).
- (D) Introduction of Sewage and Grey Water. No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4; this includes gray water discharge such as washing machine discharge, sink drains, floor drains, etc. or allow such a connection to continue.
- (E) Service Station Pavement Wash Water. No person shall cause or allow any pavement wash water from a service station to be discharged into the MS4 unless such wash water has passed through a properly functioning and maintained, grease, oil, and sand interceptor before discharge into the MS4.
- (F) Pesticide and Herbicide Use. No person shall use or cause to be used any pesticide or herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation. Any use of any pesticide, herbicide, or fertilizer in any manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States.
- (G) Disposal of Pesticide and Herbicide. No person shall dispose of, discard, store, or transport a pesticide, herbicide, or fertilizer, or a pesticide, herbicide, or a fertilizer container, in a manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States.
- (H) Storage of Trash, Toxic Substances and Hazardous Wastes. No person shall allow trash and debris to stand on property or collect on property and prohibit the storage of toxic or hazardous substances on property so as to allow exposure to precipitation and storm water runoff, which can affect storm water discharge to the MS4 or adjacent water table.
- (I) Litter of Urban Ponds, Lakes, Streams or River Banks. Any residential, commercial or industrial property boundary, located within 150 feet of any pond, lake, stream or river bank, shall assure that trash, debris, materials, containers, grass clippings, leaf and yard waste, wood chips, material used for cover or any such other material, does not litter this buffer area by means natural (wind or storm movement of material), by the careless discard of such material, or by any other means that displaces these objects from the owner's property boundary to anywhere within this 150 foot buffer zone area. All such violations will be addressed first through written notification with a time frame for clean

up. If the clean up is not completed in the time frame stated, then the City will continue escalated enforcement as outlined in the penalty section of these Rules & Regulations.

- (J) Allowable Discharges. Notwithstanding any provisions to the contrary, the following types of discharges into the storm drain system are exempt from the prohibitions set herein:

- (1) Watering of lawns, landscaping and gardens;
- (2) Washing of personal motor vehicles by residents;
- (3) Draining of water from swimming pools or spas, after chlorine content of such water according to a test kit, shows a zero reading of chlorine;
- (4) Flushing of water lines or other discharges from potable water sources;
- (5) Flows from fire fighting activities;
- (6) Managed minimal amounts of air conditioning condensation;
- (7) Uncontaminated pumped groundwater;
- (8) Discharges from rising ground waters, springs, and flows from riparian habitats and wetlands.

SECTION 3. PERMIT PROCEDURES AND REQUIREMENTS

- (A) Permit Required. No land owner or land operator shall begin any site work on any building(s), grading or other land development or any land disturbance activities without first submitting a Notice of Intent (NOI) to EPA Region I. Owner must also have received an acknowledgement, have an approved Storm Water Pollution Prevention Plan (SWPPP) and meet the requirements of the Storm Water Ordinance and these Rules & Regulations.
- (B) Application Requirements. Unless specifically excluded by the ordinance and these Rules & Regulations, any landowner or operator desiring a permit for a land disturbance activity (as described in Section 4(A)) shall secure required approvals through the City of Manchester's Planning Department/Board and shall submit to the Department of Highways a copy of the NOI and approved SWPPP for related project before beginning any site clearing or construction.

Unless otherwise excepted by these Rules & Regulations, a permit application must be accompanied by the following in order that the permit application be considered: a storm water management concept plan; a maintenance agreement; and a non-refundable permit review fee.

The Storm Water Management Plan shall be prepared to meet the requirements of Section 4B(2b) of these Rules & Regulations. The maintenance agreement may be prepared to meet the requirements of these Rules & Regulations and fees may be those established by the Department of Highways.

- (C) The Department of Highways May Establish Application Review Fees. The fee for review of any land development application shall be established by the Director of Public Works and must be paid before site construction begins. Any fee schedule is included as an appendix to these Rules & Regulations.
- (D) Application Procedure. The following application procedure will apply for any construction project, whether a new development or redevelopment as outlined within these Rules & Regulations:
- (1) Applications for land disturbance activity permits must be filed with the City of Manchester's Planning Department on any regular business day.
 - (2) A copy of this permit application shall be forwarded to the Department of Highways for review.
 - (3) Permit applications shall include the following before all final approvals are given by the City of Manchester: two copies of the Storm Water Pollution Prevention Plan, two copies of the maintenance agreement, and any required review fees.
 - (4) Within thirty (30) business days of the receipt of a complete permit application, including all documents as required by these Rules & Regulations, Manchester's Planning Department shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.
 - (5) If the permit application, Storm Water Pollution Prevention Plan or maintenance agreement are disapproved, the applicant may revise the Storm Water Pollution Prevention Plan or agreement. If additional information is submitted, the Planning Board and Department of Highways shall have thirty (30) business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
 - (6) If the permit application, final Storm Water Pollution Prevention Plan and maintenance agreement are approved by the Planning Department/Board and Department of Highways, all appropriate land disturbance activity permits shall be issued.
- (E) Permit Duration. Permits issued under this section shall be valid from the date of issuance through the date as outlined in Section 4(E) .

SECTION 4. GENERAL PERMIT PROVISIONS

- (A) Land Disturbance Permits.
When required, every owner/operator will be required to obtain an EPA General Permit from the EPA through a Notice of Intent (NOI) in the following cases:
- (1) Land disturbing activity disturbs one (1) or more acres of land;
 - (2) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land;
 - (3) Land disturbing activity of less than one (1) acre of land, if in the discretion of City of Manchester such activity poses a unique threat to water, or public health or safety;

- (4) The creation and use of borrow pits (the excavation of soils from one area to be used in another area that meets any of the criteria of 1, 2, and 3 above).

(B) Application for a Land Disturbance Permit.

- (1) Each application shall include the following:
- (a) Name of applicant;
 - (b) Business or residence address of applicant;
 - (c) Name, address and telephone number of the owner of the property of record in the office of the assessor of property;
 - (d) Address and legal description of subject property including the tax reference number and parcel number of the subject property;
 - (e) Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan and SWPPP;
 - (f) A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.
 - (g) The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property. However, the inclusion of those permits in the application shall not foreclose the City of Manchester from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits.
- (2) Each application shall be accompanied by:
- (a) A sediment and erosion control plan.
 - (b) A Storm Water Pollution Prevention Plan (SWPPP) providing for storm water management during the land disturbing activity and after the activity has been completed. The SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer (the signature and seal of the Registered Professional Engineer shall constitute his/her attestation that the SWPPP fully complies with the requirements of the Construction General Permit, or with any applicable individual or group NPDES permit issued for storm water discharges from the construction site, and with any additional requirement imposed by these Rules & Regulations) and shall provide the following Best Management Practices (BMP) measures:
 - (c) Ensure existing vegetation is preserved where feasible;

- (d) Disturbed portions of the site are stabilized as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased;
- (e) In no case shall a construction site have more than 5 acres of unstabilized area at one time;
- (f) Use of structural practices to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants for the site to the extent feasible;
- (g) Minimize the tracking of sediments off-site by vehicles;
- (h) Minimize the generation of dust or other windblown waste from the site;
- (i) Prevent the discharge of building materials to include cement, lime, concrete, and mortar to the MS4 or waters of the United States;
- (j) Provide general good housekeeping measures to prevent and contain spills and assure the proper cleanup and disposal of any such spills in compliance with state, federal and local requirements;
- (k) Implementation of proper waste disposal and waste management techniques, including covering waste materials and minimizing ground contact with hazardous chemicals and trash;
- (l) Timely maintenance of vegetation, erosion and sediment control measures and other BMPs in good and effective operating condition;
- (m) Installation of structural measures during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed.

(C) Storm Water Pollution Prevention Plan (SWPPP). The SWPPP shall be updated and modified as appropriate and as required by the Construction General Permit and these Rules & Regulations. Any update or modification to the SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer.

All contractors and subcontractors identified in a SWPPP shall sign a copy of the following certification statement before conducting any professional service identified in the SWPPP.

“I certify under penalty of law that I understand the terms and conditions of the National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification, with the Storm Water Ordinance of the City of Manchester, New Hampshire, and with those provisions of the Storm Water Pollution Prevention Plan (SWPPP) for the construction site for which I am responsible.”

This certification must include the name and title of the person providing the signature; the name, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made. The SWPPP with Engineers seal and signature and the certifications of contractors and subcontractors shall be retained at the construction site from the date of commencement of construction through the date of final stabilization. A copy must also be made available to the City of Manchester's Department of Highways.

Each application for a land disturbance permit shall be accompanied by payment of land disturbance permit and other storm water management fees, which shall be set in the Rules & Regulations.

(D) Review and Approval of Application.

- (1) The Planning Department and Department of Highways will review each application for a land disturbance permit to determine its conformance with the provisions of these Rules & Regulations. Within thirty (30) days after receiving an application, the Planning Department shall provide one of the following responses in writing:
 - (a) Approval of the permit application;
 - (b) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or
 - (c) Denial of the permit application, indicating the reason(s) for the denial.
- (2) If the Planning Department/Board has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the Planning Department/Board. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the Planning Department/Board.
- (3) No development plans will be released until the land disturbance permit has been approved.

(E) Permit Duration.

Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance, or is not complete within eighteen (18) months from the date of the commencement of construction (unless construction extension is granted by the Planning Board).

- (F) Notice of Construction. The applicant must notify the Department of Highways ten (10) working days in advance of the commencement of construction. The Owner/Operator/Contractor shall conduct regular inspections of the storm water management system construction. Inspections shall be performed on all areas that have

not had final stabilization, areas used for storage of materials that are exposed to precipitation, structural control measures, locations where vehicles enter and exit the construction site, open manholes and piping that could collect sediment and other controls as outlined in the SWPPP. All inspections shall take place after any rainstorm that is 0.5 inches of rain or greater and once every seven days. These inspections must be documented and written reports prepared that contain the following information:

- (1) The date and location of the inspection;
 - (2) Whether construction is in compliance with the approved Storm Water Pollution Prevention Plan;
 - (3) Variations from the approved construction specifications;
 - (4) Any violations that exist.
- (G) Joint Responsibility. Any contractor or subcontractor on a site of construction activity, who is not an owner or operator, but who is responsible under his/her contract or subcontract for implementing a best management practices control measure(s), is jointly and severally responsible for any willful or negligent failure on his/her part to adequately implement that control measure (if such failure causes or contributes to causing the City to violate a water quality standard, the City's NPDES permit, or any State-issued discharge permit for discharges from its MS4).
- (H) Final Stabilization. When a site has been finally stabilized and all storm water discharges from construction activities that are authorized by these Rules & Regulations and by the NPDES permit for those construction activities are eliminated, or where the operator of all storm water discharges at a facility changes, the operator of the construction site shall submit to the City's Department of Highways a copy of the NPDES Notice of Termination (NOT) of coverage under a NPDES General Permit for Storm Water Discharges. If the construction activity was performed in a combined sewer area of the City, the Notice of Termination need only be filed with the City of Manchester.

Upon final stabilization of the construction site, the owner (or duly authorized representative thereof) by submission of the NOT written certification to the Director of Public Works is certifying that the site has been finally stabilized. The City may withhold an occupancy or use permit for any premises constructed on the site until such certification of final stabilization has been filed and the Director of Public Works has determined, following any appropriate inspection, that final stabilization has, in fact, occurred and that any required permanent structural controls have been completed.

The operator shall retain copies of any SWPPP, certifications and all reports required by these Rules & Regulations or by the NPDES permit for the site, and records of all data used to complete the NOI, for a period of at least three years from the date that the site is finally stabilized.

The operator shall assure that the City of Manchester's Department of Highways is given two full sets of as-builts of the completed project. These must be received within forty-five (45) days of the submission of the NOT. If these as-builts are not received by the City, then the City may draw funds from any retainage, performance or security bonds to

have an engineer complete the as-builts from the field notes with all costs being borne by the operator.

Within thirty (30) days of the submission of the NOT the operator's construction site must be cleaned and free of any residual stock piles of materials, hay bales, silt fences or any such BMPs that were used for site erosion and sediment controls. If these are not completed the City may draw funds from any retainage, performance, or security bonds to have a contractor complete the clean up and close out any remaining site stabilization.

(I) Performance Bonds.

- (1) The Department of Highways may, at its discretion, require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the storm water practices are installed by the permit holder as required by the approved Storm Water Management Plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. [Or plus a certain percentage of the total estimated costs.] The performance security shall contain forfeiture provisions for failure to complete work specified in the Storm Water Management Plan. The applicant shall provide an itemized construction cost estimate complete with unit prices, which shall be subject to acceptance, amendment or rejection by the Department of Highways. Alternatively the Department of Highways shall have the right to calculate the cost of construction cost estimates.
- (2) The performance security or performance bond shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer licensed to practice in the State of New Hampshire that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of these Rules & Regulations. The Department of Highways will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of these Rules & Regulations. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages can be made at the discretion of the Department of Highways.

SECTION 5. WAIVERS

- (A) General. Every applicant shall provide for storm water management as required by the ordinance and its Rules & Regulations unless a written request to waive the requirement has been filed with and approved by the Director of Public Works.
- (B) Conditions for Waiver. The minimum requirements for storm water management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

- (1) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of these Rules & Regulations.
 - (2) Alternative minimum requirements for on-site management of storm water discharges have been established in a Storm Water Management Plan that has been approved by the Department of Highways.
 - (3) Provisions are made to manage storm water by an off-site facility. The off-site facility must be in place and designed to provide the level of storm water control that is equal to or greater than that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.
- (C) Downstream Damage, etc. Prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the Department of Highways that the waiver will not lead to any of the following conditions downstream:
- (1) Deterioration of existing culverts, bridges, dams, and other structures;
 - (2) Degradation of biological functions or habitat;
 - (3) Accelerated streambank or streambed erosion or siltation;
 - (4) Increased threat of flood damage to public health, life or property.
- (D) Land Disturbance Permit Not to be Issued Where Waiver Requested. No land disturbance permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with a Storm Water Management Plan.

SECTION 6. STORM WATER SYSTEM DESIGN AND MANAGEMENT STANDARDS

Storm Water Design or Best Management Practices Manual.

- (A) Adoption. The City adopts as its storm water design and Best Management Practices (BMP) manual the following publications, which are incorporated by reference in these Rules & Regulations as is fully set out herein:
- (1) New Hampshire Department of Environmental Services Sediment and Erosion Control Manual, "Green Book" (also known as the Rockingham County "Storm Water Management and Erosion Control Handbook for Urban and Developing Areas");
 - (2) The City of Manchester's "Standard Specifications for Road, Drain & Sewer Construction";
 - (3) "Innovative Stormwater Treatment Technologies" – Best Management Practices Manual NHDES, May 2002; and
 - (4) "New Hampshire DOT Guidelines for Temporary Erosion and Sediment Control and Storm Water Management" - NHDOT Bureau of Construction.

SECTION 7. INDUSTRIAL ACTIVITY DISCHARGES

All operators of City landfills, hazardous waste treatment, disposal, and recovery facilities and industrial facilities are subject to Section 313 of Title III of the Superfund

Amendments and Reauthorization Act of 1986 (SARA) 42, USC § 11023; and industrial facilities that the City determines are contributing a pollutant load to the MS4, which are sources of storm water discharges associated with industrial activity shall comply with the following requirements:

- (A) Any operator who intends to obtain coverage for storm water discharge associated with industrial activity under the NPDES General Permit for Storm Water Discharges Associated with Industrial Activity ("the Industrial General Permit") shall submit a signed copy of its NOI to the Director of Public Works at least five (5) days prior to the commencement of the industrial activity at the facility. If industrial activity is already underway upon the effective date of the Storm Water Ordinance, the NOI shall be submitted within thirty (30) days.
- (B) A SWPPP shall be prepared and implemented in accordance with the requirements of the Industrial General Permit or any individual or group NPDES permit issued for storm water discharges from the industrial facility, and with any additional requirement imposed by or under these Rules & Regulations.
- (C) The SWPPP shall be prepared, signed and sealed by a Registered Professional Engineer as outlined in Section 4(B2).
 - (1) Qualified personnel (provided by the operator) shall conduct comprehensive site compliance evaluations as required by Part IV.D.4 of the Industrial General Permit at intervals of no less than once per year. Based on the results of the compliance prevention measures and controls identified in the SWPPP shall be revised as appropriate within two weeks of such evaluation and shall provide for implementation of any changes to the SWPPP in a timely manner, but in no case more than twelve weeks after the compliance evaluation.
 - (2) A report summarizing the scope of the comprehensive site compliance evaluation required by paragraph VI.A.14, personnel making the compliance inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with necessary and appropriate plan revisions shall be made and retained as part of the SWPPP for at least one year after all storm water discharges from the facility are eliminated and the required NOT has been submitted. The report shall identify any incidence of noncompliance; or, if the report does not identify any incidence of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP, the applicable NPDES permit, and these Rules & Regulations. The individual responsible for the comprehensive site compliance evaluation shall sign the report, and it shall be submitted to the City's Director of Public Works within ten days of completion.
 - (3) If the industrial facility is required by Part VI.B.2 of the Industrial General Permit to conduct semi-annual monitoring, a signed copy of each semi-annual monitoring report prepared in accordance with Part VI.D. shall be submitted to the Director of Public Works.
 - (4) By written notice, the Director of Public Works may require any industrial facility identified in accordance with this Section 6 to implement a monitoring program

that includes the submission of quantitative data on the following constituents; any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES permit for the facility, oil and grease, COD, pH, BOD5, TSS, Total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under 40 CFR 122.21(g)(7)(iii) and (iv). The Public Works Director may require written reports of any such monitoring to be submitted to him/her.

- (5) No discharge shall exceed the maximum allowable concentrations as outlined in the New Hampshire Env-Ws 1700 Surface Water Quality Regulations.
- (6) Where all storm water discharges associated with industrial activity that are authorized by the Storm Water Ordinance, and by the NPDES permit for those discharges from industrial activities, are eliminated, or where the operator of storm water discharges associated with industrial activity at a facility changes, the operator of the facility shall submit to the Director of Public Works a Notice of Termination that includes the information required for Notices of Termination by Part IX of the Industrial General Permit.

SECTION 8. ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES

- (A) The representative of the Department of Highways shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with these Rules & Regulations.
- (B) If a property or facility has security measures in force, which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the Department of Highways.
- (C) The owner or operator shall allow the representative of the Department of Highways ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, examination and copying of any records that are required under the conditions of an NPDES permit to discharge storm water.
- (D) The Department of Highways shall have the right to set up on any property or facility such devices as are necessary in the opinion of the Department of Highways to conduct monitoring and/or sampling of flow discharges.
- (E) The Department of Highways may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the Department of Highways. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.

- (F) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Department of Highways and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
- (G) Unreasonable delays in allowing the Department of Highways access to a facility shall constitute a violation of this ordinance.
- (H) If the Department of Highways has been refused access to any part of the premises from which storm water is discharged, and the Department of Highways is able to demonstrate probable cause to believe that there may be a violation of these Rules & Regulations, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with these Rules & Regulations or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the Department of Highways may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 9. NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS

- (A) Notification. Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-storm water discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into storm water, the City of Manchester's separate storm sewer system, State Waters, or Waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.
- (B) Release Reporting. Any person in charge of any facility, vehicle, or other source of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing or any other release of any substances that may flow, leach, enter, or otherwise be introduced into the MS4 or waters of the United States, shall immediately telephone and notify the City of Manchester. Substances include any reportable quantity as outlined in 40 CFR Part 302; any extremely hazardous substance as established under 40 CFR Part 355, any oil that causes a film or sheen or discolors the surface of the water or causes a sludge emulsion to be deposited beneath the surface of the water or any harmful quantity of pollutant.
- (C) Immediate Notification Required. The immediate notification to the Department of Highways or the authorized enforcement agency in person or by phone, or facsimile no later than 24 hours of any incident outlined in Section 9(B), of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director of Public Works or his duly authorized agent within three (3) business days of the phone or in person notice and shall include the chemical or substance name, exact location of release, time and duration

of release, estimated quantity and concentration of release, source of release, precautions that should be taken in regards to release, steps taken to contain and /or clean up release and the telephone numbers of the person or persons to be contacted for further information.

If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill. This information shall also be submitted in written form within five (5) days of the incident unless waived by a representative of the City.

- (D) Liability for Damage and Loss. The notifications required in Section 9(B&C) shall not relieve the responsible person of any expense, loss, damage or other liability which may be incurred as a result of the release. This includes liability for damage to the City, to natural resources, or to any other person or property; nor shall such notification relieve the responsible person of any fine, penalty, or other liability which may be imposed pursuant to the Storm Water Ordinance, these Rules and Regulations, or to state or federal law. Any person responsible for a release shall comply with all state, federal, and any other local requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release. The responsible person shall reimburse the City for any cost incurred by the City in responding to the release.

Failure to provide notification of a release as provided above is a violation of the City of Manchester's Storm Water Ordinance.

SECTION 10. VIOLATIONS, ENFORCEMENT AND PENALTIES

- (A) Violations. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of the City's Storm Water Ordinance or these Rules & Regulations. Any person who has violated or continues to violate these provisions may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the Department of Highways is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Department of Highways is authorized to seek costs of the abatement as outlined in Section 10(E).

- (B) Notice of Violation. Whenever the Department of Highways finds that a violation of the ordinance or these Rules & Regulations has occurred, the Public Works Director or designee may order compliance by written notice of violation.
- (1) The notice of violation shall contain:

- (a) The name and address of the alleged violator;
 - (b) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - (c) A statement specifying the nature of the violation;
 - (d) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
 - (e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and,
 - (f) A statement that the determination of violation may be appealed to the Highway Commission by filing a written notice of appeal within five (5) days of service of notice of violation.
- (2) Such notice may require without limitation:
- (a) The performance of monitoring, analyses, and reporting;
 - (b) The elimination of illicit discharges and illegal connections;
 - (c) That violating discharges, practices, or operations shall cease and desist;
 - (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
 - (e) Payment of costs to cover administrative and abatement costs; and,
 - (f) The implementation of pollution prevention practices.
- (C) Appeal of Notice of Violation. Any person receiving a Notice of Violation may appeal the determination of the Department of Highways. The notice of appeal must be received within five (5) days from the date of the Notice of Violation. Filing of an appeal does not relieve the owner from full compliance with the remedial actions outlined in the Notice of Violation. Hearing on the appeal before the Department of Highways, Storm Water Appeals Committee shall take place within thirty (30) days from the date of receipt of the appeal. The decision of the Committee shall be final.
- (D) Enforcement Measures After Appeal. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then representatives of the Department of Highways may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.
- (E) Costs of Abatement of the Violation. Within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within fifteen (15) days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within five (5) days after a decision on said appeal, the charges shall

become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the City of Manchester by reason of such violation.

- (F) Civil Penalties. In the event the alleged violator fails to take the remedial measures set forth in the Notice of Violation or otherwise fails to cure the violations described therein within two (2) days, or such greater period as the Department of Highways shall deem appropriate, after the Director of Public Works or designee has taken one or more of the actions described above, the Public Works Director may impose a penalty not to exceed \$10,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
- (G) Criminal Penalties. For intentional and flagrant violations of the Storm Water Ordinance or these Rules & Regulations, the Director of Public Works may issue a citation to the alleged violator requiring such person to appear in court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 for each day the violation has occurred, or imprisonment for up to sixty (60) days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.
- (H) Remedies Not Exclusive. The remedies listed in the Storm Water Ordinance and these Rules & Regulations are not exclusive of any other remedies available under any applicable Federal, State or local law and the City of Manchester may seek cumulative remedies.

The City of Manchester may recover attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

SECTION 11. ELIGIBILITY

- (A) Permit Eligibility. Permit eligibility is limited to discharges from "large" and "small" construction activity or as otherwise designated by the EPA. This general permit contains eligibility restrictions, as well as permit conditions and requirements. Permittee may have to take certain actions to be eligible for coverage under this permit. In such cases, permittee must continue to satisfy those eligibility provisions to maintain permit authorization. If the permittee does not meet the requirements that are pre-condition to eligibility, then the resulting discharges constitute unpermitted discharges. By contrast, if permittee does not comply with the requirements of the general permit, permittee may be in violation of the general permit for their otherwise eligible discharges.
- (B) Combined Sewer Drainage Systems. Discharges from "large" and "small" construction activity or as otherwise designated by the EPA that flow into a combined sewer system are

not covered by the EPA's Phase II Storm Water Program. A NOI does not need to be submitted to the EPA nor does the owner/operator have to receive acknowledgement from the EPA prior to the start of construction activity.

The City of Manchester is requiring in these instances that all other conditions as outlined in the Storm Water Ordinance and these Rules & Regulations shall apply to all construction activity as defined in Section 4, with the exception of submitting the NOI to EPA Region I. The requirements for determination of no impact status as outlined in the Endangered Species Act and Historic Preservation Act, along with the completion of a Storm Water Pollution Prevention Plan as outlined in the NOI submission is still a mandatory submission to the City of Manchester and must follow the conditions as outlined in the EPA's NOI.

EPA reissued the Construction General Permit (CGP) on July 1, 2003. The reissued CGP now covers both the Phase I large construction sites greater than five acres and "Storm Water Associated with Small Construction Activity," which includes construction sites from one to five acres (or smaller than one acre if part of a larger "common plan of development or sale" that totals one acre). The permit contains conditions to protect endangered species and historic properties and requires the owner and operator of the construction site to, among other things:

- Develop and implement a Storm Water Pollution Prevention Plan (SWPPP).
- Post a visible public notice at the main entrance of the construction site (or if unfeasible, at a local public building) containing confirmation of permit coverage and details on where the SWPPP may be viewed.
- As part of the SWPPP, develop a site map showing surface waters, disturbed areas, best management practices (BMPs), etc.
- Have "qualified personnel" inspect all erosion and sediment control BMPs, maintain BMPs after storm events and keep records in the SWPPP of all inspections and maintenance performed.
- Control wastes, such as discarded building materials, concrete truck washout, and sanitary wastes.
- File a Notice of Termination (NOT) form when the construction site is stabilized and revegetated.